

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

CHRISTOPHER WOZNIAK,

Plaintiff,

v.

WARNER BROS. ENTERTAINMENT INC.,

Defendant.

Case No. 1:22-cv-08969-PAE

DC COMICS,

Third-Party Plaintiff,

v.

CHRISTOPHER WOZNIAK,

Third-Party Defendant.

**DECLARATION OF R. TERRY PARKER**  
**IN OPPOSITION TO THE MOTION FOR SUMMARY JUDGMENT FILED BY**  
**WARNER BROS. MEDIA'S MOTION FOR SUMMARY JUDGMENT**

I, R. Terry Parker, declare as follows:

1. I am the attorney for the plaintiff and third-party defendant Christopher Wozniak (“Wozniak”), in the above-captioned action.

2. I submit this declaration in opposition to the motion to for summary judgment filed by the defendant Warner Bros. Entertainment Inc. and third-party plaintiff DC Comics.

3. Attached hereto as Exhibit A is a copy of excerpts from the transcript of the deposition of a 30(b)(6) witness for DC Comics, Paul Levitz, taken July 17, 2023.

4. Attached hereto as Exhibit B is a copy of excerpts from the transcript of the

deposition of a third-party witness, Chuck Dixon, taken September 1, 2023.

I declare that the foregoing is true and correct under penalty of perjury under the laws of the United States.

Executed on this 5th day of November, 2023.

/s/ R. Terry Parker  
R. Terry Parker

**CERTIFICATE OF SERVICE**

I hereby certify that on this 5th day of December, 2023, I caused a copy of the foregoing to be filed via ECF by which all counsel of record for the parties are served.

/s/ R. Terry Parker

R. Terry Parker

# **EXHIBIT A**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CHRISTOPHER WOZNIAK,

Plaintiff,

V.

WARNER BROS. ENTERTAINMENT, INC.,

Defendants.

Civil Action No. 22-cv-08969 (PAE)

-----x

DC COMICS,

Third-Party Plaintiff,

V.

CHRISTOPHER WOZNIAK,

Third-Party Defendant.

-----x

July 17, 2023  
10:00 a.m.

EXAMINATION of Paul Levitz, pursuant to  
Subpoena, held at the above time and place  
before Larin Kaywood, a Notary Public within and  
for the State of New York.

## APPEARANCES:

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ANDREW NIETES, ESQ.

Email: JWEINBERGER@FZLZ.COM

\* \* \*

## STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that filing, sealing and certification, and the same are, hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to by an officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

\* \* \*

Paul Levitz

PAUL LEVITZ, the witness herein, having been first duly sworn by a Notary Public in and of the State of New York, was examined and testified as follows:

EXAMINATION BY

MR. PARKER:

Q. Would you please state your full name for the record?

A. Paul Levitz.

Q. What is your current address?

A. 7 Deforest Drive, Cortlandt Manor, New York 10567.

Q. Good morning, Mr. Levitz.

A. Good morning.

Q. My name is Terry Parker. I represent the third-party defendants. You have already entered your name into the record, so I'll scratch that question off of my list.

Have you ever been deposed before?

A. Many times.

Q. Good. So you probably know some of the basic rules and so I'll go through them any way. This is a question and answer format.

Paul Levitz

I'll be asking you some questions; and the court reporter will be writing those questions and you will be answering those questions to the best of your ability.

She will be creating a transcript that will show my question and your attorney your attorney may object from time to time unless they instruct you not too; is that understood?

A. Yes.

Q. In order for us to have a clean record for the questions and answer. I need you to answer verbally, if you nod your head or say yes, or you articulate it in some fashion, that doesn't get captured by the reporter.

Please wait until I finish the question before you begin the answer, we don't want an over lap of us speaking at the same time that makes it a nightmare for the reporter; is that understood?

A. Yes.

Q. If you need a break at any time, let me know as long as there is no question pending

<p>1 2 Paul Levitz 3 A. No. 4 Q. We'll I'll represent to you this is 5 what we call a Notice of Deposition. 6 And this is kind of a formal 7 mechanism by which I tell your counsel that we 8 are going to have the deposition today and in 9 this deposition notice there is a list of 10 definitions, and then there are a list of 11 topics? 12 A. Yes. 13 Q. It's my understanding that you're 14 here today to testify as to the DC acquisitions 15 of the copyrights of the Batman copyright of 16 material; is that accurate? 17 A. I believe that is one of the things 18 that they suggested that I was here for. 19 MR. WEINBERGER: I can confirm that. 20 Q. And you are here to testify as DC 21 come imagines acquisitions of the copyrights of 22 the Batman characters; is that right? 23 MR. WEINBERGER: I can confirm that 24 for the witness. 25 Q. And you are here to discuss topics</p>	<p>1 2 Paul Levitz 3 of one and two, and they are also you are here 4 to testify the topic number nine that is DC 5 Comics policies and procedures for accepting 6 proposed material from freelance writers from 7 January 1st, 1990 to January of 2003. 8 MR. WEINBERGER: I confirm that, I 9 would like to note for the record DC perspective 10 I don't think you mentioned topic three, he is 11 testifying on the companies behalf on one two 12 three and nine in the notice. 13 But with respect to topics, one 14 through three, I understand that you're using 15 defined terms to delineate between them but from 16 DC's perspective they are all one in the same. 17 I don't know if there is any need to 18 differentiate between topics one, two and three. 19 MR. PARKER: I want to go over those 20 defined terms so that we know what we are 21 talking about so that we something that is 22 specific and understood. 23 I'm going to get rid of this. Let's 24 move up and look at the deposition of these 25 terms. Let's refer now to the definition of</p>
<p>1 2 Paul Levitz 3 number five in the first to determined Batman 4 copyrighted material; do you see that? 5 A. Yes. 6 Q. And that is defined meaning words 7 referred to in the third-party complaint by DC 8 Comics at Batman writer material including the 9 words referred to in the third-party complaint. 10 Is that a definition that you 11 understand? 12 A. I have seen the words but I haven't 13 seen the words in the exhibit that you're 14 referring to. 15 MR. WEINBERGER: You can ask a 16 question. 17 Q. Let's stay with the term Batman 18 characters. I'm looking at number six now, the 19 term Batman characters is defined as referenced 20 in the third-party complaint; is it not? 21 A. That is what it says. 22 Q. I think it would help if we pull up 23 the third-party complaint? 24 Mr. Levitz, is this a document that 25 you have seen before?</p>	<p>1 2 Paul Levitz 3 A. No. 4 Q. I'll represent to you that this is 5 the third-party complaint by DC Comics Chris, 6 you are familiar with the lawsuit, or are you 7 not? 8 A. I am mildly familiar with the 9 lawsuit. 10 Q. I'm going to refer us now to 11 paragraph nine. Paragraph nine states certain 12 -- Batman's creation in 1939, certain other 13 related characters and other -- original 14 fanciful elements have appeared in the Batman 15 plotlines, including but not limited to Robin 16 aka Dick Grayson, The Riddler aka Edward Nygma, 17 Commissioner James Gordon, Barbara Gordon aka 18 Batgirl, Two Face, The Joker, Batman's butler 19 Alfred, the Batmobile and the fictional city 20 Gotham City, among many others (together, the 21 "Batman Characters"). So I understand the 22 Batman characters as being defined in this 23 paragraph is this a definition that you 24 understand. 25 Do you understand that?</p>

1  
2 Paul Levitz  
3 A. I believe that I understand it.  
4 Q. So since Batman's creation in 1939,  
5 what is your understanding of that creation?  
6 A. I'm sorry. Would you repeat your  
7 question?  
8 Q. The opening phrase since Batman's  
9 creation in 1939?  
10 A. Yes.  
11 Q. What is your understanding of that  
12 phrase "Batman's creation in 1939?"  
13 A. I think it's plain English. Phrase  
14 that just describes the fact that there is a  
15 creative process that resulted in the character;  
16 the creative property Batman and the assumption  
17 here is that it took place in 1939 and that is  
18 probably not entirely accurate.  
19 Q. Why do you think it's not entirely  
20 accurate?  
21 A. If I remembering when the detectives  
22 comic number 27 was first published the process  
23 probably began in late 1938.  
24 Q. Do you understand the phrase?  
25 Do you understand the phrase certain

1  
2 Paul Levitz  
3 element that you can think of?  
4 A. We could probably sit here for the  
5 next hour trying to remember all of the  
6 different elements of the process. If you're  
7 talking about the property as it's extended  
8 overall of these years.  
9 Q. Right now we are just looking at  
10 1939?  
11 A. 1939, you have doctor dead, if your  
12 so specific to 1939 most of these element have  
13 not appeared yet, that are a numerated here.  
14 Q. Well, was Robin?  
15 A. No.  
16 Q. Was he created in 1939?  
17 A. He may have been created at the very  
18 end 1939, but he was not published until 1940.  
19 Q. And Miller?  
20 A. 1940, somewhere.  
21 Q. And Mr. Gordon?  
22 A. The original story, and if your  
23 defining that as 1939 let's stick with that.  
24 Q. Let's go through them one at a time.  
25 This term Robin A.K.A Dick Grayson,

1  
2 Paul Levitz  
3 other related characters and other original  
4 fanciful elements?  
5 A. I believe it's an attempt to put a  
6 definitional term to the fact that there are  
7 original creative element within the stories of  
8 Batman that are characters or objects that are  
9 distinctive and original.  
10 Q. Can you identify any fanciful  
11 elements that is identified here?  
12 A. There is a list in the paragraph  
13 that includes a number of characters. I would  
14 also say that the batcave, the batter rank, the  
15 utility belt, and many other things, and  
16 villains that were introduced.  
17 Q. Bathound, would that be one?  
18 A. That certainly would be.  
19 Q. That might?  
20 A. Yes.  
21 Q. Kathy?  
22 A. Yes.  
23 Q. Batwoman?  
24 A. Yes.  
25 Q. Okay. Any other faceable (sic)

1  
2 Paul Levitz  
3 what is your understanding of that term?  
4 A. The original character as had a  
5 secret identity as Dick Grayson.  
6 Q. What is the next one Riddler, what  
7 is your understanding of that character?  
8 A. Dylan who taunted Batman by offering  
9 difficult to solve right isles that was accused  
10 of the crimes that he was about to commit.  
11 Q. And the commission of James Gordon;  
12 what is your definition of it?  
13 A. Circumstance lying the police force  
14 in 1939 and in many Batman stories thereafter.  
15 Q. Barbara Gordon, bat girl; what is  
16 your understanding of that?  
17 A. That character was in 1968 roughly  
18 as the daughters of the commission of Gordon,  
19 she was the Liberian who sort of had a crush on  
20 Batman and took on the identity of bat girl.  
21 Q. And the term Joker, two phase, I'm  
22 skipping.  
23 What is the understanding of the  
24 Joker, what is your understanding of that term?  
25 A. That was introduced in Batman in

<p>1 2 Paul Levitz 3 1940. 4 Q. And Batman, Alfred, where did that 5 come from? 6 A. He was introduced in the Batman 7 stories, I believe in 1941, and then 8 significantly modified after the first Batman 9 serial, but normally known as the first Batman 10 the William family Butler. 11 Q. The term Batman mobile. What is 12 your understanding of the bat mobile? 13 A. The distinctive car that the Batman 14 operates which the visual has changed over the 15 years but it always had some level of unique 16 design element that identify it as a bat mobile, 17 either a bat head, hood element or other 18 features like that. 19 Q. Any other features? 20 A. I'm sorry. 21 Q. What other features? 22 A. It's very, very much from decade to 23 decade. Distinctive, the tail changed at one 24 point or another, things that are of Batman. 25 Q. And I assume that you would</p>	<p>1 2 Paul Levitz 3 understand that the Batman was a Batman 4 character as well that can be added to the -- 5 A. I didn't hear you clearly. 6 Q. Is a Batman, Batman that can be 7 added to this list, in paragraph nine? 8 A. Sure. 9 Q. How would you describe the Batman 10 character? 11 A. The most typical Batman stories. He 12 is a boy named Bruce Wayne, who had seen his 13 parents get murdered when he was a child and has 14 sworn he didn't see the murder by elevating in 15 that City of Gotham; and is inspired by putting 16 on the mask and becoming Batman. 17 Q. And did the Batman character is an 18 original creation? 19 A. As original as anything gets. 20 Q. Who created him? 21 A. The original Batman stories are by 22 Bob Kane and Bill Sienkiewicz. 23 Q. Who is Bob Kane? 24 A. Bob Kane was born Robert Kane in New 25 York City in the early part of the 20th century.</p>
<p>1 2 Paul Levitz 3 I wouldn't remember the date offhand. But I 4 would guess around 1920. 5 He was one of the earliest 6 cartoonist in the nation's field of comic books 7 in the 1930s. Predominantly a cartoonist. 8 He did some work for the DCs 9 predecessors and interest and acquired his fame 10 and his success with the creation of Batman and 11 its publication starting in 1939. 12 Q. And so earlier I think that you made 13 a reference to Batman being created roughly in 14 1938 is that a reference to Bob Kane's creation 15 of that man, or would you say that Bob Kane 16 created that man in 1938? 17 A. I think Bob Kane and Bill 18 Sienkiewicz began the creation of 1938 given 19 what the publication dates are. 20 Q. Who is Bill Finger? 21 A. When Bob Kane presented the original 22 rough sketch for Batman to the editor what would 23 be DC Comics he didn't have a story behind that. 24 And the editor man Vincent Sullivan, said go out 25 and get a writer to work and Bob was a fellow</p>	<p>1 2 Paul Levitz 3 graduate of the same high school, I think older 4 than Bob, somewhat a professional writer 5 already. He began working as the ghost writer 6 for Bob Kane on the earlier stories, none to the 7 others and the industry from the beginning. 8 Q. Is it your opinion or you would say 9 that Bill or Bob Kane would come together from 10 the Batman in 1938? 11 A. Yes. 12 Q. All right. And what makes the 13 Batman original? 14 MR. WEINBERGER: Objection. 15 A. My view of that as a Bill 16 Sienkiewicz, is that the combination of element 17 visually and from the story standpoint added up 18 to original character. 19 Q. And I have to break them down, are 20 you referring to the distinct and visual 21 features? 22 A. Combination of distinctive and 23 visual and he progressively becomes more 24 original overtime as more and more things are 25 added and are making them more distinguishable</p>

1  
2 Paul Levitz  
3 affixed amount and in lieu of the full  
4 extension.  
5 Q. And was there hesitant to provide a  
6 full extension that you recall?  
7 A. I don't know if I would describe it  
8 as hesitance, but it was a negotiated solution  
9 from a request from people. The companies sure  
10 try and pay less if they can.  
11 Q. What was the position of Debra Kane  
12 and Elizabeth Kane as to why they deserve more?  
13 Objection.  
14 A. I was not present for the  
15 discussion, but I assume it produced itself to  
16 Batman is wonderful, Batman is making you  
17 billions of dollars and give us money.  
18 Q. On what grounds do they think they  
19 deserve money?  
20 A. The success of Batman and it being  
21 based on Bob Kane's initial idea.  
22 Q. Initial idea, or initial creation?  
23 A. I don't know if there is a  
24 difference between the two.  
25 Q. So I'll let you read the letter

1  
2 Paul Levitz  
3 each knowledge that the Batman property, and  
4 I'll copyrights trademarks read the paragraph.  
5 You each knowledge that the Batman  
6 property, and all copyrights, trademarks, and  
7 all other rights therein are owned solely and  
8 exclusively by DC.  
9 You can further acknowledge that all  
10 work rendered by Kane with respect to the Batman  
11 property was rendered by DC, or as an employee  
12 for DC, pursuant to a written work for hire  
13 agreement with DC; and or at the instance and  
14 expense and under the supervision and control of  
15 DC; and therefore as work made for hire for DC,  
16 and that neither of you as the successor or  
17 interest to Kane have any copyright interest in  
18 the Batman property whatsoever.  
19 Is that an accurate reading of that  
20 paragraph?  
21 A. I think so.  
22 Q. And so this is the first time we've  
23 seen work for higher language in this agreement.  
24 Is there a reason that the work for  
25 higher language is included here?

1  
2 Paul Levitz  
3 before we move on. So the first three  
4 paragraphs there?  
5 A. Okay.  
6 Q. You have gotten to the bottom of the  
7 page, correct?  
8 A. Yes. It's pretty straight forward.  
9 Q. So do you have any reason why  
10 Deborah Kane's signature isn't on the document?  
11 A. Since I haven't seen the document. I  
12 have no idea. I know she agreed to the deal.  
13 Q. You know that Deborah Kane agreed to  
14 the deal?  
15 A. Yes, it may have been done encounter  
16 parts, or something like that.  
17 MR. PARKER: There is another  
18 version of this document produced with  
19 her signature. I would ask that you  
20 produce that.  
21 MR. WEINBERGER: If you can go to the  
22 next page. There you go. It's already  
23 produced.  
24 Q. Okay. This is the first time, I'm  
25 looking at the paragraph that begins, "that you

1  
2 Paul Levitz  
3 MR. WEINBERGER: Objection to the  
4 extent it requires the witness to reveal  
5 the substance of any attorney-client  
6 communication privilege that may have to  
7 the extent that he can recall.  
8 If you can otherwise answer the  
9 question, go ahead.  
10 A. Since I didn't participate in the  
11 drafting, I assume that it's a different lawyer  
12 doing it, and again, trying for belt and  
13 suspenders.  
14 Q. And so let's look at the next  
15 paragraph.  
16 Further, if you each agree, that if  
17 and to the extent that any of Kane's  
18 contributions to Batman's property are deemed  
19 not to be works for hire for DC. You  
20 acknowledge this is the first time we see a  
21 granted all rights from copyrights Kane to DC?  
22 MR. WEINBERGER: The same objection.  
23 To the extent it requires the witness  
24 not to reveal the substance of attorney  
25 client communication, to the extent that

<p>1</p> <p>2 Paul Levitz</p> <p>3 you can answer the question, go ahead?</p> <p>4 A. It became conventional at some point</p> <p>5 that includes just in case deemed to be a work</p> <p>6 for hire, then you agree to assign everything to</p> <p>7 us.</p> <p>8 Q. So you will agree there is no</p> <p>9 assignment of rights from Bob Kane to --</p> <p>10 A. I'm sorry. There was no need for</p> <p>11 assignment of rights because everything was done</p> <p>12 at DCs instance and expense. Kane had nothing</p> <p>13 to assign.</p> <p>14 Q. Does DC Comics have policy and</p> <p>15 procedures for accepting proposed materials from</p> <p>16 freelance writers?</p> <p>17 A. From time to time DC has had</p> <p>18 policies and procedures that have varied over</p> <p>19 the decades.</p> <p>20 Q. Okay. And it's from 1989 until</p> <p>21 1993, or '94, was their policies and procedures</p> <p>22 for freelance writing?</p> <p>23 A. Generally speaking.</p> <p>24 Q. What was that policy?</p> <p>25 A. Generally the procedure was they</p>	<p>1</p> <p>2 Paul Levitz</p> <p>3 unsolicited material from people that we don't</p> <p>4 know or we have not worked with was returned</p> <p>5 unread. I think that was already a policy by</p> <p>6 that time.</p> <p>7 If work was submitted by someone who</p> <p>8 the edit knew, or had reason to believe, it can</p> <p>9 make interesting contribution then it might be</p> <p>10 read and evaluated.</p> <p>11 Q. Was the policy written down</p> <p>12 anywhere?</p> <p>13 A. No, not that I'm aware of.</p> <p>14 Q. Why not?</p> <p>15 A. We didn't write down a lot of stuff.</p> <p>16 Q. Well, why not?</p> <p>17 A. Lazy.</p> <p>18 Q. How was the policy communicated?</p> <p>19 A. I'm sorry, can you repeat that.</p> <p>20 Q. How was the policy communicated?</p> <p>21 A. When people become members of the</p> <p>22 editorial staff they were taught on how to</p> <p>23 behave as an editor.</p> <p>24 Q. And how were they taught how to</p> <p>25 behave? What type of behaviors were they</p>
<p>1</p> <p>2 Paul Levitz</p> <p>3 taught?</p> <p>4 A. That can take the rest of the</p> <p>5 afternoon. If you're asking specifically --</p> <p>6 Q. With respect to unsolicited</p> <p>7 material, how is there a policy for them to</p> <p>8 behave?</p> <p>9 A. There is a pile of stuff that has</p> <p>10 come in from people please fill out the form</p> <p>11 letter, thanks for playing our game now go away;</p> <p>12 that was generally a very currete exercise for a</p> <p>13 young editorial person.</p> <p>14 Q. What do you mean by that?</p> <p>15 A. I mean that there would be a pile of</p> <p>16 material much of it which was sent in on a very</p> <p>17 amateurish level; and having to sit there and</p> <p>18 stuff it into envelopes, and feeling guilty that</p> <p>19 you weren't taking the time to read it, and</p> <p>20 didn't have the time to spend any time on it,</p> <p>21 and generally it was a very hard task for young</p> <p>22 staffers</p> <p>23 Q. And the authority to review,</p> <p>24 unsolicited material from people was left to the</p> <p>25 editor in charge of whatever a particular</p>	<p>1</p> <p>2 Paul Levitz</p> <p>3 comment was solicited for; is that accurate?</p> <p>4 A. Broadly during the period that</p> <p>5 you're talking about the editor was primarily</p> <p>6 responsible.</p> <p>7 If you're talking about specifically</p> <p>8 Batman, which I've understood that we are</p> <p>9 focused on here; the decision also might have</p> <p>10 been restricted to what is in terms of the group</p> <p>11 editor who was principle responsible for Batman</p> <p>12 and Danny O'Neil during the period.</p> <p>13 Q. I'm sorry, who?</p> <p>14 A. Danny O'Neil.</p> <p>15 Q. Did the editors have any guideline</p> <p>16 at DC Comics for the content as to what would be</p> <p>17 acceptable, and what would not be acceptable for</p> <p>18 publications?</p> <p>19 A. Many guidelines relevant to that.</p> <p>20 It varied with the different property, or the</p> <p>21 character.</p> <p>22 Q. And let's stick with Batman.</p> <p>23 And so I guess that we are talking</p> <p>24 about 1990, and it's my understanding that</p> <p>25 Archie Goodwin was an editor at that time; is</p>

1  
2 Paul Levitz  
3 that accurate?  
4 A. Yes, he was mentioned in one of the  
5 titles.  
6 Q. What was Archie's position?  
7 A. Archie was, at that time, probably  
8 was listed as a group editor. He was one of the  
9 most senior editorial group staffed editors that  
10 we've had; extraordinarily talented and experienced  
11 editor and writer.  
12 Q. So Archie had a set of guidelines  
13 that you've followed in terms of the content  
14 that you are looking for?  
15 Or did he kind of trust them to  
16 determine what should be published and what  
17 should not be published?  
18 A. It's a broad guidelines that is  
19 applicable to all of the editors working on  
20 superhero material that Archie would have fallen  
21 under.  
22 Beyond that the more specific stuff  
23 would've been more stylistically up to him and  
24 additionally, provided some guidelines that we  
25 were attended to.

1  
2 Paul Levitz  
3 editors of what they intend to do.  
4 And they would say yes or no, and  
5 why don't you try and go back and forth,  
6 whatever the case maybe.  
7 It was a little different with  
8 Archie, who was editing a title called Legends  
9 of the Dark Night, which it did not have a  
10 single writer on a regular basis. And then I  
11 would assume, that the writer would come in and  
12 say I would come in and say have an art for  
13 legends, and we'll talk about it a little at  
14 length for what we had in mind.  
15 And then it's possible that they  
16 have a two or three paragraph written of what  
17 their thoughts were what they might share with  
18 Archie, and Archie would say that is great, and  
19 here is a contract and go and do it or no, I'm  
20 not interested in that.  
21 Q. Does the same process for the pencil  
22 or inker, or someone doing graphic material  
23 verse written materials?  
24 A. No, there is no submission process  
25 for that.

1  
2 Paul Levitz  
3 Q. And part of the guidelines how does  
4 that work? I assume this is a physical document  
5 that the group editors and the editors have  
6 access too?  
7 A. No, written documents.  
8 Q. Or was it communicated to the  
9 different writers?  
10 A. No.  
11 Q. Sir, can you describe for me the  
12 process by which freelance writers submitted  
13 work for publication to DC Comics specifically  
14 Batman stories during this time frame from 1989  
15 until 1983?  
16 MR. WEINBERGER: Objection.  
17 A. There is no process for them to  
18 submit work, that is now the process of how  
19 freelance writers work. If you look at the  
20 Batman books in specific, there were probably  
21 three Batman titles being published in any given  
22 month; and the specific writer would be assigned  
23 to them usually in a year or multi year in a  
24 period of time, and that writer would have a  
25 conversation with the editors or the subsidiary

1  
2 Paul Levitz  
3 Q. What do you mean?  
4 A. That is assignment. You have a  
5 script, who is going to do it. It's not  
6 somebody comes up and say I like to do four  
7 issues of the Dark Knight as a penciller or an  
8 issues of Batman, the editor assigns the work.  
9 Q. How it worked by the writer  
10 submitted at that time and I know that you  
11 talked about it together, were they always in  
12 the same room, or was it sometimes submitted by  
13 mail?  
14 A. The vast majority of time in those  
15 years it was in person, probably with some of  
16 the writers who is more geographically distance  
17 in the phone conversation, if you're talking  
18 about the initial plot ideas.  
19 Q. Are you aware of Archie Goodwin keep  
20 the non-soliciting material from a freelance  
21 writer?  
22 A. For legends of the Dark Knight?  
23 Q. Yes?  
24 A. No.  
25 Q. For any other publication?

1  
2 Paul Levitz  
3 A. In the course of his career,  
4 certainly.  
5 Q. Okay. I'm going to share my screen  
6 and enter this as an exhibit.  
7 Q. So let's mark this as exhibit ten  
8 for the record.  
9 (Whereupon, Exhibit ten was marked  
10 for the record.)  
11 A. Sure.  
12 Q. Paul, is this a document that you  
13 have ever seen before?  
14 A. Not that I recognize, but it covers  
15 one of the issues of Star Trek.  
16 Q. Correct. And I'll represent to you  
17 this is the color that was illustrated by my  
18 client who will represent that he submitted it  
19 to DC Comics, it was unsolicited, and he used  
20 copyright material that I've assume that the DC  
21 Comics would claim ownership within?  
22 A. No.  
23 MR. WEINBERGER: Objection.  
24 Q. Is Star Trek not a DC Comics title?  
25 A. The comic is a DC Comics titled, the

1  
2 Paul Levitz  
3 and I assume that you're telling the truth as an  
4 officer of the court.  
5 Q. And is this an uncommon occurrence  
6 at DC Comics where someone would unsolicited it,  
7 and create contents, and try and sell it to  
8 editors at DC Comics?  
9 A. It was a relatively rare occurrence  
10 for cover art work for comics, but it came in  
11 the 1990's period that you're talking about, it  
12 would happen occasionally, it was an  
13 extraordinarily rear or nonexistence process  
14 with the stories of art work with the interior  
15 of comics.  
16 Q. Is this a document that you have  
17 ever seen before?  
18 A. Again, I don't recall this, I'll  
19 assume that this is a public issues of Spectre.  
20 Q. What is an Spectre?  
21 A. Spectre it's a comic back to 1940 or  
22 so, a ghostly superhero.  
23 Q. And is this image of a character  
24 that you would consider DC Comics property?  
25 A. The spectre part of it. I don't

1  
2 Paul Levitz  
3 underlining property is owned Paramount  
4 Pictures, or whatever the hell they call  
5 themselves this week, Paramount Global.  
6 Q. So you would not sue my client for  
7 trademark and infringement in this particular  
8 case, even if you did own this work, or if you  
9 did own the copyrights for these characters,  
10 would you be inclined to sue someone who  
11 submitted them to an editor for possible  
12 publication?  
13 A. I'm not sure that I understand your  
14 point.  
15 Q. It's a hypothetical.  
16 So assuming that your company owns  
17 the copyright to these characters, these  
18 characters are bought before -- let's just  
19 strike that.  
20 And so, Paul, if I represent to you  
21 that my client submitted this concept to an  
22 editor at DC Comics for publication,  
23 unsolicited, and then DC Comics went to publish  
24 this content, would you have reason to doubt me?  
25 A. I assume that your an honest man,

1  
2 Paul Levitz  
3 know who the other person depicted there is.  
4 Q. When you say, "the spectre part of  
5 it," you are referring to the face; is that  
6 accurate?  
7 A. Yes.  
8 Q. And I'll submit to you, that this is  
9 also a process created by my client unsolicited,  
10 and submitted to DC Comics for publication and  
11 was accepted by publication.  
12 Do you have any reason to doubt  
13 that?  
14 MR. WEINBERGER: Objection.  
15 A. It would be very, very rare for that  
16 to happen on a book like a spectre so I do doubt  
17 but it is possible.  
18 Q. Would my client have been suing for  
19 using this particular image or creating this  
20 image of the spectre.  
21 A. If your client had done anything  
22 with it to commercialize it, other than with us  
23 he would've probably been sued or at least sent  
24 a deceased desist order.  
25 (Whereupon, Exhibit 11 was marked

## **EXHIBIT B**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

Case No. 22-cv-08969 (PAE)

-----  
CHRISTOPHER WOZNIAK

Plaintiff

VS.

WARNER BROS. ENTERTAINMENT, INC.

Defendant

-----  
DC COMICS

Third-Party Plaintiff

VS.

CHRISTOPHER WOZNIAK

Third-Party Defendant  
-----

Videoconference Deposition of CHUCK DIXON,  
taken on behalf of the Third-Party Defendant,  
through counsel, September 1st, 2023, at 9:52 a.m.,  
before Nadine M. Castonguay, a Court Reporter.

1 APPEARANCES:

2

3 FOR THE THIRD-PARTY PLAINTIFF:

4 LAW OFFICE OF R. TERRY PARKER

5 43 West 43rd Street, Ste. 275

6 New York, New York 100036-7424

7 BY: R. Terry Parker, Esq.

8

9

10

11 FOR THE THIRD-PARTY DEFENDANT:

12 Fross Zelncik Lehrman & Zissu P.C.

13 151 West 42nd Street, 17th Floor

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15 BY: James D. Weinberger, Esq.

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17 (Exhibits retained by Mr. Parker.)

18

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1 pending, we can take a break. So just let  
2 us know whenever you need a break. I don't  
3 anticipate us going on for very long today.  
4 But if you do want a break, let us know.

5 A. Okay.

6 Q. Finally, this is a very informal  
7 session. But I want you to remember that  
8 you're here under oath and you're  
9 testifying just as if we were in a court  
10 of law. And we expect you to tell the  
11 truth to the best of your ability. Okay?

12 A. Yes.

13 Q. All right. So let's get started  
14 I guess with a little background  
15 information.

16 I understand you used to be  
17 a freelance contributor to DC Comics.  
18 Is that accurate?

19 A. Yes, it is.

20 Q. When was that? When were you a  
21 freelance contributor to DC Comics?

22 A. Roughly, 1991 to 2002.

23 Q. What does that mean when we say  
24 you were a freelance contributor for  
25 DC Comics?

1           A.     Well, I was not a company  
2     employee.   Basically you would be assigned  
3     jobs and paid by the page.

4           Q.     Okay.   And when were you paid,  
5     after or before work was done?

6           A.     Always paid after.

7           Q.     All right.   And how did you get  
8     your start at DC Comics?

9           A.     Danny O'Neil, who was the Batman  
10    group editor at the time, reached out to  
11    me.   I had been working for several other  
12    companies at the same time.   He reached out  
13    to me to write a miniseries featuring  
14    Robin, Batman's sidekick.

15                   I did it, it was successful  
16    and from there I basically worked on a  
17    number of Batman titles over the course of  
18    the next 11 years.

19          Q.     Okay.   Can you name some of those  
20    for us?

21          A.     Detective Comics, Night Wing.  
22    I did a hundred issues over Robin monthly.  
23    I worked on Cat Woman, Green Arrow,  
24    Green Lantern.   I did some work on  
25    The Flash, a little bit of Super Man.

1 Birds Of Prey, a title created by me and  
2 Jordan Gorfinkel, a number of others.

3 Q. So at your, during that time the  
4 group editor was always Danny O'Neil?

5 A. It was Danny O'Neil I think until  
6 1999, when he retired.

7 Q. Did you work with any other  
8 editors while you were a freelance  
9 contributor to DC Comics during those  
10 years?

11 A. I worked with almost every editor  
12 there. Mike McEveny, Joe Elich, Scott  
13 Peterson, Dara Venchenzo, Jordan Gorfinkel.  
14 Kevin Duely, Chris Duffey.

15 I mean, the list goes on and  
16 on. Following Denny -- Oh, man. The name  
17 is slipping my mind of who the group editor  
18 was.

19 Q. Did you ever submit unsolicited  
20 materials to DC Comics for their  
21 consideration in the hope that they would  
22 publish the work that you created?

23 A. All the time. We were always  
24 pitching specials, mini series. Like I  
25 say, Jordan Gorfinkel and I pitched Birds

1 of Prey which became a title on its own.

2 Q. And with respect to the Batman  
3 comic, did you ever use Batman characters  
4 in these unsolicited submissions to  
5 DC Comics?

6 A. Absolutely. I was inside the  
7 Batman circle, so I pretty much had free  
8 reign to do whatever I wanted to do with  
9 any of those characters, within the  
10 restrictions the editors gave.

11 But, yes. I mean, I use  
12 Batman characters in all of my titles.

13 Q. When you said you were in the  
14 inner circle, was there sort of written  
15 permission provided to you to use Batman  
16 characters in your unsolicited materials?

17 A. No, no. There's nothing like  
18 that. You just wanted to make certain that  
19 your use of the character fit within  
20 continuity.

21 A lot of times you were told  
22 you can't use that character because  
23 they're on another planet currently or  
24 they're dead or whatever reason. There  
25 was nothing written. It was all creative

1 continuity conflicts that you had to work  
2 out.

3 Q. Was this permission that you  
4 understood that you had? If it wasn't  
5 provided in writing, was it ever provided  
6 orally to you?

7 A. Permission to use the characters?

8 Q. Yes.

9 A. Yes. I mean, you would just  
10 check to make sure, Can I use this  
11 character.

12 Like I say, the only real  
13 restrictions were continuity. It wasn't  
14 like this character is forbidden, nobody  
15 could write it. You didn't want to  
16 conflict with what another writer was doing  
17 on another title.

18 Q. Right. Okay.

19 Did you -- were you ever in  
20 a situation where you submitted material  
21 and you were told that you were in jeopardy  
22 of being sued by DC Comics because you had  
23 used their copyrighted material in your  
24 unsolicited submission?

25 A. No, nothing like that ever

1 happened.

2 Q. Were you aware of that ever  
3 happening to other freelance contributors?

4 A. I had never heard of that  
5 happening.

6 Q. Okay. Was it your understanding  
7 that each editor was at liberty to consider  
8 unsolicited materials from freelance  
9 contributors?

10 A. Yeah. I mean, you can walk in  
11 off the street and pitch something.

12 Q. Did that ever happen?

13 A. Oh, yeah. It happened all the  
14 time. I never pitched for Batman because I  
15 never thought I'd ever get it. That was  
16 the dream assignment in comics.

17 But, yes. I pitched lots of  
18 other things. I was always at DC, throwing  
19 ideas at them before they hired me and  
20 after they hired me.

21 Q. How did you throw ideas at them?

22 A. You might show up with like a  
23 pitch piece, like a treatment, like a four  
24 or five-page thing. Or you might just  
25 pitch it verbally in their office; what if

1 this happened what if we did this. Just  
2 simple you know, very casual atmosphere.

3 Q. When you did a pitch piece, would  
4 you write down sort of the idea of the  
5 story? Was there text you work from when  
6 you did a pitch piece?

7 A. No. You just sort of wrote a  
8 general summary of what the story would be  
9 about and how many issues you think it  
10 would take to tell.

11 Q. And would you use -- would you  
12 use a DC character in that pitch piece?

13 A. Absolutely. If you were pitching  
14 to DC, there's DC characters.

15 Q. Okay. All right. And when you  
16 didn't a pitch piece, you submitted it to  
17 an editor. What was the next step?

18 A. You'd wait till they read it.  
19 Sometimes they'd read it right there in  
20 front of you, if you handed it to them in  
21 person.

22 Generally, I would email.  
23 Back in the day, fax pitches. And you just  
24 wait to hear back. It would either be yes  
25 or no, or let's talk about it, or maybe we

1 can use this later, or maybe if you, if it  
2 was four issues instead of six, all those  
3 kind of considerations.

4 Q. But it was your understanding  
5 that you had permission to use DC  
6 characters in your pitch pieces, correct?

7 A. Yes. They were wide open ideas,  
8 they would sometimes say, you know, could  
9 you pitch this character, we're looking for  
10 something for this character or that  
11 character a lot of times.

12 The structure at DC was that  
13 all of the characters were broken up and  
14 controlled by different editors. So you  
15 had to find out which editor was  
16 controlling the character you were  
17 interested in. And just simply pitch to  
18 them either verbally or in print.

19 Q. Okay. Were you aware of any  
20 other freelance writers pitching to editors  
21 of DC Comics material that incorporated  
22 DC Comics characters, and specifically  
23 Batman characters?

24 A. Everybody was pitching all the  
25 time. Like I said, everybody pitched

1 Batman, because you want to get on to  
2 Batman. It was the title to work on.

3 So, you know, I visit DC and  
4 there'd always be a half of dozen other  
5 freelancers there and they were there to  
6 pitch.

7 Q. When you say everyone in these  
8 other freelancers, are you referring to  
9 people that are in the inner circle, or are  
10 you referring to people who are not in the  
11 inner Batman circle that?

12 A. Well, in the DC offices it was  
13 generally people who were already working  
14 for DC. But, you know, lots of times I saw  
15 freelancers pitching at conventions. Come  
16 to a DC booth and say, Hey, I have an idea.

17 Q. Okay. When you say "people,"  
18 when you refer to people in the office that  
19 were already working on things, what do you  
20 mean by that?

21 A. Well, these were people that they  
22 had monthly books. They had monthly  
23 assignments. Generally it was like  
24 Wednesdays. The freelancers would show up.  
25 It would be freelancer day at DC. You'd go

1 and your editor would take you to lunch.

2 So you get a free lunch and  
3 you get to pitch ideas. And it was,  
4 you know, it was usually the usual  
5 suspects. It was guys who already had  
6 assignments with the company. But  
7 sometimes not.

8 And sometimes -- I mean,  
9 once, I even brought along a friend of mine  
10 who was a newspaper reporter and he pitched  
11 an idea. I just brought him along as a  
12 guest.

13 Q. And just to clarify, when you  
14 were referring to pitching ideas are you  
15 referring to just ideas for stories or did  
16 you ever witness people pitching, providing  
17 art work as opposed to literary work but  
18 visual work.

19 A. Oh, yeah. A lot of times when  
20 you pitched, you have what you call  
21 pitch piece. It would be a piece of  
22 artwork.

23 Because every time I  
24 pitched, I had an artist in mind, and I  
25 would talk to them beforehand. And we

1 would have art prepared to go along with  
2 the piece. So, basically, pitch as  
3 a team. Not all the time.

4 Sometimes I just pitched as  
5 a writer, but sometimes I pitched as part  
6 of the writer artist team.

7 Q. And when you're doing these  
8 pitches and when they involve a text, can  
9 you describe how long the text was?

10 A. Well, it was generally as long as  
11 you needed to tell the story to sell it.  
12 You had to sell it and tell it. Some  
13 pitches were short, particularly if they  
14 were high concepts.

15 Others were longer if the  
16 story was more involved. It wasn't like a  
17 set length for pitch pieces. It was  
18 whatever length you thought you needed in  
19 order to sell the story and tell the story.

20 Q. In order to sell and tell the  
21 story, what kind of specific description  
22 might you include in your pitch piece?

23 A. Well, you start with the general  
24 overall concept of the story. Why is this  
25 story different from all the other stories,

1 that have been done with this particular  
2 character? And then the direction you want  
3 to take it in, and you would simply tell  
4 the story beat by beat, including all of  
5 the characters involved and everything  
6 else.

7 So basically you're giving  
8 them the beginning, middle and end of the  
9 story, so they understand why this is a  
10 different kind of story, why they might  
11 want to buy it. Why it's right for the  
12 character.

13 Q. And when you refer to this sort  
14 of phrase beat by beat, what do you mean  
15 there?

16 A. It's like each story scene.  
17 Story begins here, goes there, introduce  
18 your first major conflict, your twist, your  
19 turns, your reveals and your big  
20 conclusion.

21 Q. And was it your understanding  
22 that you, that some of the Batman  
23 characters you used in these pitches were  
24 owned by DC Comics?

25 A. Yes. DC owned everything. You

1     were playing in their sand box, but they  
2     owned the sand box.

3           Q.     Right. But it was your  
4     understanding you had permission to use the  
5     characters in your pitches, correct?

6           A.     Not only permission, you were  
7     encouraged. They didn't want to hear  
8     about -- they didn't want you pitching  
9     somebody else's characters. They want the  
10    stories to be specific to these characters.

11                   So you had to use those  
12    characters in the pitch, or otherwise  
13    there's no sense in pitching it.

14           Q.     Okay. And Mr. Dixon, I have  
15    looked at your resume and you've got quite  
16    a fan page on the internet, fan presence on  
17    the internet.

18                   So I would say that you were  
19    probably very, very welcomed by DC Comics  
20    to pitch material. And so I can understand  
21    why you would make this commission and  
22    encouragement and apply it to you.

23                   Do you think it applied, or  
24    was it your impression that this  
25    permission, and encouragement applied to

1 other freelance writers who didn't have  
2 your --

3 MR. WEINBERGER: Objection.

4 BY MR. PARKER:

5 Q. You can answer the question,  
6 Mr. Dixon.

7 A. Okay, yeah. I mean, I didn't  
8 have special permission to do this.  
9 Anybody could.

10 If you had a good idea for  
11 Batman, Superman, Green Lantern or  
12 whatever, you could be a total stranger.  
13 You can come in off the street and they  
14 would be willing to listen, as long as it's  
15 a good idea.

16 Q. And when you were working as a  
17 freelance contributor to DC Comics during  
18 the early 90s, did you know Christopher  
19 Wozniak at that time?

20 A. Yeah. I ran across him a couple  
21 of times. I can't remember where or when,  
22 but I knew who he was.

23 Q. Did you know him to be a  
24 freelance contributor at the time to  
25 DC Comics?